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D1 Strategic Systems, as defined in DOE Order 430.1, "Life-Cycle Asset Management," and designated by the Secretary.

D2 Siting, construction, operation, and decommissioning of nuclear fuel reprocessing facilities.

D3 Siting, construction, operation, and decommissioning of uranium enrichment facilities.

D4 Siting, construction, operation, and decommissioning of power reactors, nuclear material production reactors, and test and research reactors.

D5 Main transmission system additions (that is, additions of new transmission lines) to a Power Marketing Administration's main transmission grid.

D6 Integrating transmission facilities (that is, transmission system additions for integrating major new sources of generation into a Power Marketing Administration's main grid).

D7 Establishment and implementation of contracts, policies, marketing plans or allocation plans for the allocation of electric power that involve (1) the addition of new generation resources greater than 50 average megawatts, (2) major changes in the operating limits of generation resources greater than 50 average megawatts, or (3) service to discrete new loads of 10 average megawatts or more over a 12 month period. This applies to power marketing operations and to siting construction, and operation of power generating facilities at DOE sites.

D8 Approval or disapproval of an application to import/export natural gas under section 3 of the Natural Gas Act involving major new natural gas pipeline construction or related facilities, such as construction of new liquid natural gas (LNG) terminals, regasification or storage facilities, or a significant expansion of an existing pipeline or related facility or LNG terminal, regasification, or storage facility.

D9 Approval or disapproval of an application to import/export natural gas under section 3 of the Natural Gas Act involving a significant operational change, such as a major increase in the quantity of liquid natural gas imported or exported.

D10 Siting, construction, operation, and decommissioning of major treatment, storage, and disposal facilities for high-level waste and spent nuclear fuel, including geologic repositories, but not including onsite replacement or upgrades of storage facilities for spent nuclear fuel at DOE sites where such replacement or upgrade will not result in increased storage capacity.

D11 Siting, construction (or expansion), and operation of a disposal facility for transuranic (TRU) waste and TRU mixed waste (TRU waste also containing hazardous waste as designated in 40 CFR part 261).

D12 Siting, construction, and operation of incinerators, other than research and devel-

opment incinerators or incinerators for non-hazardous solid waste (as designated in 40 CFR part 261.4(b)).

[57 FR 15144, Apr. 24, 1992, as amended at 61 FR 36243, July 9, 1996; 61 FR 64608, Dec. 6, 1996]

PART 1022—COMPLIANCE WITH FLOODPLAIN AND WETLAND ENVIRONMENTAL REVIEW REQUIREMENTS

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AUTHORITY: 42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*; E.O. 11988, 42 FR 26951, 3 CFR, 1977 Comp., p. 117; E.O. 11990, 42 FR 26961, 3 CFR, 1977 Comp., p. 121; E.O. 12372, 47 FR 30959, 3 CFR, 1982 Comp., p. 197.

SOURCE: 68 FR 51432, Aug. 27, 2003, unless otherwise noted.

Subpart A—General

§ 1022.1 Background.

(a) Executive Order (E.O.) 11988—Floodplain Management (May 24, 1977) directs each Federal agency to issue or amend existing regulations and procedures to ensure that the potential effects of any action it may take in a floodplain are evaluated and that its planning programs and budget requests reflect consideration of flood hazards and floodplain management. Guidance

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for implementation of the E.O. is provided in the floodplain management guidelines of the U.S. Water Resources Council (40 FR 6030; February 10, 1978) and in "A Unified National Program for Floodplain Management" prepared by the Federal Interagency Floodplain Management Taskforce (Federal Emergency Management Agency, FEMA 248, June 1994). E.O. 11990—Protection of Wetlands (May 24, 1977) directs all Federal agencies to issue or amend existing procedures to ensure consideration of wetlands protection in decision-making and to ensure the evaluation of the potential impacts of any new construction proposed in a wetland.

(b) It is the intent of the E.O.s that Federal agencies implement both the floodplain and the wetland provisions through existing procedures such as those established to implement the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*). In those instances where the impacts of the proposed action are not significant enough to require the preparation of an EIS under section 102(2)(C) of NEPA, alternative floodplain or wetland evaluation procedures are to be established. As stated in the E.O.s, Federal agencies are to avoid direct or indirect support of development in a floodplain or new construction in a wetland wherever there is a practicable alternative.

§ 1022.2 Purpose and scope.

(a) This part establishes policy and procedures for discharging the Department of Energy's (DOE's) responsibilities under E.O. 11988 and E.O. 11990, including:

(1) DOE policy regarding the consideration of floodplain and wetland factors in DOE planning and decision-making; and

(2) DOE procedures for identifying proposed actions located in a floodplain or wetland, providing opportunity for early public review of such proposed actions, preparing floodplain or wetland assessments, and issuing statements of findings for actions in a floodplain.

(b) To the extent possible, DOE shall accommodate the requirements of E.O. 11988 and E.O. 11990 through applicable DOE NEPA procedures or, when appropriate, the environmental review proc-

ess under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. 9601 *et seq.*).

§ 1022.3 Policy.

DOE shall exercise leadership and take action to:

(a) Incorporate floodplain management goals and wetland protection considerations into its planning, regulatory, and decisionmaking processes, and shall to the extent practicable:

(1) Reduce the risk of flood loss;

(2) Minimize the impact of floods on human safety, health, and welfare;

(3) Restore and preserve natural and beneficial values served by floodplains;

(4) Require the construction of DOE structures and facilities to be, at a minimum, in accordance with FEMA National Flood Insurance Program building standards;

(5) Promote public awareness of flood hazards by providing conspicuous delineations of past and probable flood heights on DOE property that has suffered flood damage or is in an identified floodplain and that is used by the general public;

(6) Inform parties during transactions guaranteed, approved, regulated, or insured by DOE of the hazards associated with locating facilities and structures in a floodplain;

(7) Minimize the destruction, loss, or degradation of wetlands; and

(8) Preserve and enhance the natural and beneficial values of wetlands.

(b) Undertake a careful evaluation of the potential effects of any proposed floodplain or wetland action.

(c) Avoid to the extent possible the long- and short-term adverse impacts associated with the destruction of wetlands and the occupancy and modification of floodplains and wetlands, and avoid direct and indirect support of development in a floodplain or new construction in a wetland wherever there is a practicable alternative.

(d) Identify, evaluate, and as appropriate, implement alternative actions that may avoid or mitigate adverse floodplain or wetland impacts.

(e) Provide opportunity for early public review of any plans or proposals for floodplain or wetland actions.